IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

WP(C).No. 29679 of 2007(G)

PETITIONER:

P.K.SHIBUKUMAR, PULIYULLAKANDY VEEDU,
THURUTHIYAD P.O., BALUSSERY, KOZHIKODE.

BY ADV. SRI.K.RAMACHANDRAN
SMT.A.R.DIVYA

RESPONDENTS:
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1. THE SECRETARY TO GOVERNMENT,
LABOUR & REHABILITATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE CHIEF EXECUTIVE OFFICER, KERALA
MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
KOLLAM.

3. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
KOZHIKODE.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD FOR R1.
SRI.K.HARILAL, SC FOR R2
SRI.P.RAMAKRISHNAN, SC FOR R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 29679 OF 2007 G
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Dated this the 8th day of October, 2007

J U D G M E N T

The prayer in this writ petition is to quash Ext.P6. Ext.P1 is the final determination order passed with notice to the petitioner. The said order was confirmed in Ext.P2 appeal. Petitioner pursued the matter in second appeal before the 1st respondent and that also met with dismissal as per Ext.P6. It is in this background the present writ petition has been filed.

2. The only point raised is that the appellate authorities did not take into consideration Exhibits P3 to P5 statements produced by the petitioner. It is admitted case that Exhibits P3 to P5 were not produced before the 3rd respondent at the time when Ext.P1 order was passed. If that be so, the petitioner could not insist the appellate authority to consider Exhibits P3 to P5 as a matter of right. Hence the challenge against Ext.P6 fails and the writ petition is only to be dismissed.

3. At this stage, learned counsel for the writ petitioner

seeks an instalment facility to discharge the liability.

4. I have heard the standing counsel for the respondent Bank also.

In the peculiar facts of this case, I direct that the amount due under Ext.P1 shall be paid by the petitioner in five equal monthly instalments commencing from 1/11/07. The subsequent instalment will be payable on the first of every succeeding month. If the petitioner commits default in paying any one of the instalments, the respondents will be entitled to take coercive action as is warranted in law.

ANTONY DOMINIC, JUDGE.

Rp